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81-0984

6 MAY 1981

MEMORANDUM FOR: General Counsel

STAT ATTENTION:

FROM: James H. McDonald
Director of Logistics

DDA REGISTRY

FILE: Legal

SUBJECT: Paperwork Reduction Act of 1980

REFERENCE: Mtp1 Adsee memo from OGC, dated 14 Apr 81,
Subj: Draft Opinion for Comments: Analysis
of the Paperwork Reduction Act of 1980
(OGC 81-03102) (OL 1-1743)

1. I have reviewed the referent memorandum and the Paperwork Reduction Act of 1980, as requested, and would like to submit a few relevant comments for your consideration.

2. Section 3506(b) of the Act (Attachment 1) requires the head of each agency to designate a senior official, who will report directly to the agency head, to administer the paperwork reduction program. Since the Deputy Director for Administration (DDA) exercises the Agency's procurement authorities under Section 3 of the CIA Act of 1949, it is our recommendation that the DDA be designated as the senior official responsible for the program. This recommendation is made on the basis the authority for the acquisition of automatic data processing or telecommunications equipment (ADPE) which currently resides with the Director of Logistics remains unchanged. Remaining duties not related to the ADPE procurement process could be assigned by the DDA to cognizant Agency officials as appropriate.

3. One area of concern is the ADPE exclusion at Section 3502(2) of the Act. That section states that certain ADPE and associated items are excluded from application of the Act where: (A) its function, operation or use involves intelligence activities; or (E) it is critical to the direct fulfillment of military or intelligence missions, provided that exclusion E shall not include ADPE used for routine administrative and business applications such as payroll, finance, logistics, and personnel management. Exclusion E could clearly create disruptions if applied to the Agency, since its applicability depends in large part on the intended meaning of terms such as "critical," "direct," and "routine." Although exclusion A could arguably provide for the conclusion that all Agency ADPE is excluded from the Act, we have no

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assurance that such an interpretation would prevail. In this regard, Congressman Jack Brooks is quoted as saying that the "Defense Department, the main opponent of the legislation, will be reminded that only a limited number of sensitive national security operations were exempted from OMB oversight of federal DP under the law" (underscoring supplied). (See Attachment 2.) Given this view of a key member of Congress, who is in a position to closely monitor and affect the ADPE delegation to this Agency, we would recommend that every effort be made to clarify this point and ensure the applicability of exclusion A to all Agency activities.


James H. McDonald

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Attachments

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